

REAL ESTATE APPRAISER BOARD

MINUTES OF MEETING

November 27, 2007

The Real Estate Appraiser Board met at the Department of Professional and Occupational Regulation, 9960 Mayland Drive, Richmond, Virginia. The following Board members were present:

John C. Harry, III, Chairman
Gina Burgin
Harry Lewis, Jr.
Douglas Mullins, Jr.
Richard Pruitt
Janet W. Fuller
Pat Turner, Jr.
Diane Quigley
Sandra Johnson

DPOR Staff present for all or part of the meeting included:

Jay W. DeBoer, Director
Karen O'Neal, Deputy Director
Nick Christner, Deputy Director
Christine Martine, Executive Director
Kevin Hoeft, Regulatory Board Administrator
Earlyne Perkins, Legal Analyst
Emily Trent, Administrative Assistant

Elizabeth Peay from the Attorney General's office was present.

Chairman Harry called the meeting to order at 10:09 AM.

Call to Order

A motion was made by Mr. Pruitt and seconded by Mr. Turner to approve the agenda. The motion passed unanimously. Members voting "Yes" were Burgin, Johnson, Lewis, Harry, Mullins, Pruitt, Fuller, Quigley and Turner.

Approval of Agenda

A motion was made by Mr. Lewis and seconded by Ms. Quigley to approve the following minutes: August 20, 2007 Informal Fact-Finding Conference, August 21, 2007 Board Meeting, and September 6, 2007 Informal Fact-Finding Conference. The motion passed unanimously. Members voting "Yes" were Burgin, Johnson, Lewis,

Approval of Minutes

Harry, Mullins, Pruitt, Fuller, Quigley and Turner.

Bernie Braun addressed the Board during the Public Comment Period. Mr. Braun asked the Board to consider extending the segmented approach from 24 months to 30 months.

Public Comment

No action was taken by the Board.

In the matter of **File Number 2007-03361, Donna Cowan Goforth**, the Board reviewed the investigative file, the transcript, and exhibits from the Informal Fact-Finding Conference, and the Summary of the Informal Fact-Finding Conference. A motion was made by Mr. Turner and seconded by Mr. Pruitt to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and find a violation of 18 VAC 130-20-180 K 1 (Count 1), 18 VAC 130-20-180 E (Count 2), 18 VAC 130-20-180 E (Count 3), 18 VAC 130-20-180 E (Count 4) and 18 VAC 130-20-180 K 1 (Count 5) of the Board's 2003 regulations. The motion passed unanimously. Members voting "Yes" were Burgin, Johnson, Lewis, Harry, Mullins, Pruitt, Quigley and Turner.

**File Number 2007-03361,
Donna Cowan Goforth**

A motion was made by Ms. Quigley and seconded by Mr. Turner to reject the recommendation contained in the Summary of the Informal Fact-Finding Conference and instead impose revocation of license for the violations in Counts 1-5. The Board voted to impose the sanction of revocation due to the serious nature of the violations as well as the dishonesty and incompetence demonstrated by Goforth in the transaction. The motion passed unanimously. Members voting "Yes" were Burgin, Johnson, Lewis, Harry, Mullins, Pruitt, Quigley and Turner.

As the presiding Board member, Ms. Fuller did not participate in the discussion or vote related to this matter.

In the matter of **File Number 2007-04481, Donna Cowan Goforth**, the Board reviewed the investigative file, the transcript, and exhibits from the Informal Fact-Finding Conference, and the Summary of the Informal Fact-Finding Conference. A motion was made by Mr. Turner and seconded by Ms. Burgin to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and find violations of 18 VAC 130-20-180 E (Count 1), 18 VAC 130-20-180 E (Count 2), and 18 VAC 130-20-180 K 1 (Count 3) of

**File Number 2007-04481,
Donna Cowan Goforth**

the Board's 2003 regulations. The motion passed unanimously. Members voting "Yes" were Burgin, Johnson, Lewis, Harry, Mullins, Pruitt, Quigley and Turner.

A motion was made by Mr. Turner and seconded by Ms. Quigley to reject the recommendation contained in the Summary of the Informal Fact-Finding Conference and instead impose revocation of license for the violations in Counts 1-3. The Board voted to impose the sanction of revocation due to the serious nature of the violations as well as the dishonesty and incompetence demonstrated by Goforth in the transaction. In addition, the Board is of the opinion that although Goforth has no prior disciplinary actions, that a timeframe and pattern has been established in relationship with File Number 2007-03361. The motion passed unanimously. Members voting "Yes" were Burgin, Johnson, Lewis, Harry, Mullins, Pruitt, Quigley and Turner.

As the presiding Board member, Ms. Fuller did not participate in the discussion or vote related to this matter.

In the matter of **File Number 2007-03131, Robbie L. Colwell**, the Board reviewed the Consent Order as seen and agreed to by Mr. Colwell. A motion was made by Mr. Turner and seconded by Ms. Quigley to accept the proposed Consent Order offer wherein Mr. Colwell admits to a violation of 18 VAC 130-20-180.K.3 (Count 1) of the Board's 2003 Regulations and agrees to \$150.00 in Board costs for a total of \$150.00. In addition, for violation of Count 1, Mr. Colwell agrees to revocation of his license. The motion passed unanimously. Members voting "Yes" were Burgin, Johnson, Lewis, Harry, Mullins, Pruitt, Quigley and Turner.

File Number 2007-03131,
Robbie L. Colwell

As the board member who reviewed the file, Ms. Fuller did not participate in the discussion or vote related to this matter

In the matter of **File Number 2007-03551, John Howard Chen**, the Board reviewed the Consent Order as seen and agreed to by Mr. Chen. A motion was made by Mr. Turner and seconded by Ms. Fuller to reject the Consent Order and make a counter offer wherein Mr. Chen admits to a violation of 18 VAC 130-20-180.K.1 (Count 1) of the Board's 2003 Regulations and agrees to a monetary penalty of \$1,000.00 for the violation contained in Count 1 as well as \$150.00 in Board costs for a total of \$1,150.00. In addition, Mr. Chen is required to taken an upper level Residential Appraisal

File Number 2007-03551,
John Howard Chen

Course. Such course shall be offered by a member provider of the Appraisal Foundation or from on approved by the Board. Such course shall be a minimum of 40 classroom hours and shall not be completed on-line. Upon successful completion of the course, Mr. Chen shall provide the Board with proof of passing the exam within 180 days of the execution of the Order. It is acknowledged that satisfactory completion of the above-referenced course will not count towards any continuing education requirement for renewal of license. The motion passed unanimously. Members voting "Yes" were Turner, Johnson, Burgin, Lewis, Harry, Mullins, Pruitt, and Fuller.

As the board member who reviewed the file, Ms. Quigley did not participate in the discussion or vote related to this matter

In the matter of **File Number 2007-02552, Robert L. Cole**, the Board reviewed the Consent Order as seen and agreed to by Mr. Cole. A motion was made by Ms. Fuller and seconded by Mr. Mullins to accept the proposed Consent Order offer wherein Mr. Cole admits to a violation of 18 VAC 130-20-180.K.1 (Count 1) of the Board's 2003 Regulations and agrees to a monetary penalty of \$500.00 for the violation contained in Count 1 as well as \$150.00 in Board costs for a total of \$650.00. The motion passed unanimously. Members voting "Yes" were Quigley, Johnson, Burgin, Lewis, Harry, Mullins, Pruitt, and Fuller.

File Number 2007-02552,
Robert L. Cole

As the board member who reviewed the file, Mr. Turner did not participate in the discussion or vote related to this matter

Mr. Harry turned the position of Chair over to Mr. Lewis and recused himself from the meeting.

Transfer of Chair

In the matter of **File Number 2008-00490, Jayne Allen**, the Board reviewed the record, which consisted of the application file, transcript and exhibits, and the Summary of the Informal Fact-Finding Conference of the presiding Board member. Ms. Allen was present and addressed the Board. A motion was made by Mr. Pruitt and seconded by Ms. Fuller to accept the recommendation and approve Ms. Allen's application for a Certified Residential Real Estate Appraiser license. The motion passed unanimously. Members voting "Yes" were Burgin, Lewis, Turner, Johnson, Quigley, Mullins, Pruitt, and Fuller.

File Number 2008-00490,
Jayne Allen

As the presiding Board member, Mr. Harry did not participate in the discussion or vote related to this matter.

Mr. Harry returned and assumed the position of Chair.

Transfer of Chair

Ms. Martine advised the Board that the public comment period had ended and the final regulations were ready for approval. A motion was made by Mr. Turner and seconded by Mr. Lewis to adopt the final regulations as submitted. The motion passed unanimously. Members voting "Yes" were Burgin, Lewis, Turner, Johnson, Quigley, Mullins, Pruitt, Harry and Fuller.

Administrative Issues

The Board discussed the request made during public comment to extend the use of the segmented approach. A motion was made by Mr. Turner and seconded by Ms. Fuller to extend the time for using the segmented approach from twenty-four (24) months to thirty (30) months. The motion passed unanimously. Members voting "Yes" were Burgin, Lewis, Turner, Johnson, Quigley, Mullins, Pruitt, Harry and Fuller.

Mr. Gregory Waddell, Attorney was present and addressed the Board concerning a settlement offer on behalf of his clients, Rita L. Trinkle, Respondent in File Number 2006-02740 and Kenneth S. Gusler, Respondent in File Number 2006-02712.

Old Business

At 11:02 AM. Ms. Quigley made a motion which was seconded by Ms. Fuller, that the Board recess and the Board immediately reconvene in closed meeting for the purpose of consultation with legal counsel and briefings by staff members pertaining to actual or probable litigation as permitted by § 2.2-3711.A.7 of the *Code of Virginia*. The following non-members will be in attendance to reasonably aid the consideration of the topic: Christine Martine, Karen O'Neal and Elizabeth Peay.

Closed Session

This motion is made with respect to the matter(s) identified as agenda item(s):

File Number 2006-02740 – Rita L. Trinkle
File Number 2006-02712 – Kenneth S. Gusler

At 11:23 AM., a motion was made by Mr. Lewis and seconded by Mr. Turner that the Board reconvene in open session.

WHEREAS, the Real Estate Appraiser Board has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

Certification

WHEREAS, §2.2-3712 of the *Code of Virginia* requires a certification by this Real Estate Appraiser Board that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Real Estate Appraiser Board hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Real Estate Appraiser Board.

VOTE: 9-0

AYES Burgin, Fuller, Harry, Johnson, Lewis, Mullins, Pruitt, Quigley, and Turner

NAYS: None

ABSENT DURING THE VOTE: None

ABSENT DURING THE MEETING: None

A motion was made by Mr. Mullins and seconded by Ms. Burgin to reject the settlement offer presented on behalf of Rita L. Trinkle and Kenneth S. Gusler and to go forward with the appeal. The motion passed unanimously. Members voting "Yes" were Burgin, Lewis, Turner, Johnson, Quigley, Mullins, Pruitt, Harry and Fuller.

Old Business

Mr. Turner shared his concerns with the Board about Broker Price Opinions (B.P.O) and Automated Valuation Models (A.V.M.) being used by lenders in lieu of appraisals.

New Business

A motion was made by Mr. Turner and seconded by Mr. Lewis to draft a letter informing Fannie Mae and Freddie Mac that they are in violation of the Board's regulations. The motion passed unanimously. Members voting "Yes" were Burgin, Lewis, Turner, Johnson, Quigley, Mullins, Pruitt, Harry and Fuller.

The Board reviewed the "Real Estate Appraiser Experience Log" and "Property Type" definitions to clarify the codes used for types of property appraised. Ms. Quigley and Mr. Harry volunteered to form a committee that will review the items discussed and present their recommendations during a future Board meeting.

The Board recessed from 12:35PM to 12:55PM

Break

A motion was made by Mr. Turner and seconded by Mr. Lewis to accept the ASC's recommendation to accept certified credentials from other states for reciprocity applicants as long as the appraiser is in good standing with that state. The motion passed unanimously. Members voting "Yes" were Burgin, Lewis, Turner, Johnson, Quigley, Mullins, Pruitt, Harry and Fuller.

Other Business

The Board viewed the presentation from the Office of the Attorney General on Conflict of Interest Act Training.

There being no further business, the meeting adjourned at 1:53 P.M.

Adjourn

John C. Harry, III, Chairman

Jay W. DeBoer, Secretary